

UNITED STATES DISTRICT COURT

for the

_____ District of _____

United States of America

v.

Case No. 3:20-mj-115

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Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of _____ in the county of _____ in the

_____ District of _____, the defendant(s) violated:

*Code Section**Offense Description*

This criminal complaint is based on these facts:

☐ Continued on the attached sheet.*AMBrown*_____
*Complainant's signature*_____
Printed name and title

Sworn to before me and signed in my presence.

Date: _____

City and state: _____

*Shirra V. Hodges*_____
*Judge's signature*_____
Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Special Agent Antonio Brown, of the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), being first duly sworn, hereby depose and state as follows:

INTRODUCTION

1. This affidavit is made in support of a criminal complaint against Kerry Trent KINARD (“KINARD”). Based on my training, experience, and the facts set forth below, there is probable cause to believe that KINARD did on or about December 3, 2020 violate 18 U.S.C. § 922(a)(6) – False Written Statement to a Licensed Dealer Regarding a Statement that is Material to the Truthfulness of the Sale.

2. I am an investigative agent or law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in 18 U.S.C. § 2516.

3. I am a Special Agent with ATF assigned to the Columbia, South Carolina Field Office and have been employed since July 2017. In my capacity as a special agent, I routinely investigate violations of the federal criminal statutes concerning firearms violations and drug trafficking. I have been a sworn officer since 2004. Prior to ATF, I served with the Orangeburg County Sheriff’s Office and the South Carolina Highway Patrol. I am a graduate of the ATF National Academy and the Federal Law Enforcement Training Center (FLETC) and I have received specialized training in many additional contexts on the enforcement of federal criminal law, to include alongside the U.S. Attorney’s Office. Specifically as it relates to this application for a Criminal Complaint, I have been the case agent on numerous prior cases alleging violations of the criminal statute at issue here.

4. As a result of my training and experience, I am familiar with federal criminal laws and know that the facts detailed below are a violation 18 U.S.C. § 922(a)(6), which make it unlawful for (1) a defendant to acquire or attempt to acquire a firearm from a federally licensed firearms dealer (“FFL”); (2) in doing so, to make a false or fictitious oral or written statement intended or likely to deceive the firearms dealer; (3) that the false statement or identification was material to the lawfulness of the sale of the firearm; and (4) that the defendant did so knowingly.

5. The information contained in this affidavit is based on my personal knowledge or that of other law enforcement investigators who have had dealings with KINARD in the past. Because this affidavit is being submitted for the purpose of establishing probable cause for the issuance of an arrest warrant, I have not included each and every fact known to me concerning this investigation, and have set forth only those facts I believe are necessary for said purpose.

PROBABLE CAUSE

KINARD is Under Felony Indictment

6. On November 5, 2020, a Bamberg County Grand Jury returned seven felony indictments against KINARD related to the alleged sexual abuse of children spanning numerous years as alleged in the indictments and probable cause arrest warrants. The following are the seven indictments returned by the grand jury, which are cases being investigated by the South Carolina

State Law Enforcement Division (SLED) and prosecuted by the Second Judicial Circuit Solicitor's Office:

- (1) 2020GS0500060—Assault & Battery – First Degree
- (2) 2020GS0500061—Attempted Criminal Sexual Conduct With A Minor—Victim Under 16 Years Of Age, Second Degree
- (3) 2020GS0500063—Criminal Solicitation Of A Minor
- (4) 2020GS0500064—Committing Or Attempting To Commit Lewd Act Upon Child Under 16
- (5) 2020GS0500065—Dissemination of Obscene Material To Person Under 18 Years Of Age
- (6) 2020GS0500066—Criminal Solicitation Of A Minor
- (7) 2020GS0500067—Dissemination of Obscene Material To Person Under 18 Years Of Age

7. Each of the above indictments are for felony offenses in that they are all punishable by more than one year in prison. In consultation with the Solicitor's Office handling these matters, each are punishable by up to 10 years, 15 years, or 20 years in prison, depending on the charge.

8. KINARD had actual notice he was under felony indictment. On September 25, 2020, he was arrested on the charges described above. On September 30, 2020, he was present in the courtroom with counsel at his motion for bond on those same charges, where the Honorable Judge Clifton Newman, South Carolina Court of General Sessions, ordered no bond citing "significant concerns that the Defendant's release on bond would constitute an unreasonable danger to the community" and citing concerns about substance abuse and mental health history.

9. Further, on October 26, 2020, Defendant, after participating in a psychological evaluation, participated in another bond hearing on those charges, where Judge Newman ordered a \$75,000.00 surety bond with numerous special conditions, to include GPS monitoring, that KINARD be prohibited from entering Bamberg County for any reason except for court appearances, and no contact with victims, among others.

10. In addition, on November 5, 2020, Governor Henry McMaster, State of South Carolina, filed Executive Order No. 2020-69 with the South Carolina Secretary of State suspending KINARD from his service as a member of the Bamberg County Council as a result of the above felony indictments. Therefore, evidence indicates KINARD knew he was under felony indictment when he made the false statements below.

KINARD is Subject to a Protective Order

11. On October 27, 2020, the Honorable Judge Vicki J. Snelgrove, South Carolina Family Court, entered an Protective Order restraining KINARD "from committing further acts of abuse or threats of abuse" against his spouse, the petitioner. That order is in effect until April 27, 2021.

12. In that Protective Order, the Court made a factual finding regarding KINARD's dangerousness. The Court found that the "evidence establishes that [KINARD] represents a credible threat to the physical safety of the Petitioner/Victim. [KINARD] used, attempted to use, or threatened to use physical force against Petitioner/Victim that is reasonably expected to cause bodily injury."

The Court then specified that the Order (1) protected an intimate partner, child of an intimate partner, or child of KINARD, (2) that KINARD had actual notice and an opportunity to participate in the hearing, and (3) that the Court found that KINARD represented a credible threat or explicitly prohibited the use, attempted use or threatened use of physical force.

13. KINARD also had actual notice that he was subject to a Protective Order. KINARD was present at the hearing on the Protective Order and represented by counsel.

KINARD's False Written Statements to an FFL on December 3, 2020

14. While out on bond, under seven felony indictments, and subject to a protective order, KINARD entered a federally-licensed firearms dealer and made two false statements material to the lawfulness of the sale in an attempt to acquire a firearm.

15. On December 3, 2020 at approximately 1:26pm, KINARD went to Sportsman's Warehouse 155 located at 476 Piney Grove Road, Columbia, SC, which is a federally-licensed firearms dealer. According to the Solicitor's Office's review of KINARD's location monitoring, KINARD entered the FFL at 1:26pm, remained in the FFL for approximately 50 minutes, and exited around 2:16pm.

16. While in the FFL, KINARD attempted to purchase a Taurus, model G3 pistol, serial number ABL166174 as depicted below. The FFL performed a background check and the firearm was not transferred to KINARD as there was a delayed denial for the attempted transaction.



17. ATF SAs obtained the ATF Form 4473, the standard Firearms Transaction Record completed by KINARD at the FFL during the attempted firearm purchase and I have identified two false statements made by KINARD on the form that are in violation of 18 U.S.C. § 922(a)(6).

18. KINARD's first false statement was in response to question 21(b), which asked: "*Are you under indictment or information in any court for a felony, or any other crime for which the judge could imprison you for more than one year [...] ?*" KINARD answered "no." However, as described above, KINARD was under seven separate felony indictments at the time, and he had actual notice of the same. I respectfully submit that the evidence indicates that this statement was false, that it was intended or likely to deceive the FFL, and that the false statement was material to the lawfulness of

the sale. If KINARD had answered truthfully, that he was in fact under felony indictment, the sale would have been unlawful and therefore denied under 18 U.S.C. § 922(n), which prohibits such persons from firearm possession.

19. KINARD's second false statement was in response to question h, which asked: "*Are you subject to a court order ... restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner?*" KINARD answered "no." However, KINARD was, in fact, subject to such a Protective Order, and he had actual notice of the same. I respectfully submit that the evidence indicates that statement was also false, that it was intended or likely to deceive the FFL, and that the false statement was material to the lawfulness of the sale. If KINARD had answered truthfully, that he was in fact subject to such a Protective Order, the sale would have been unlawful and therefore denied under 18 U.S.C. § 922(g)(8) which prohibits such persons from firearm possession.

20. The Form 4473 is required to be filled out by the purchaser, and the Form 4473 here shows KINARD's personal identifying information was provided, to include his driver's license information, address, name, date of birth, height, weight, and ethnicity. It also has what appears to be KINARD's signature. The FFL also advised me that it requires the purchaser alone to fill out the Form 4473 at their FFL.

CONCLUSION

21. Based on the information above, which is true and correct to the best of my knowledge, I respectfully submit there is probable cause to believe KINARD did on or about December 3, 2020 violate 18 U.S.C. § 922(a)(6) in that he made false statements, which were material to the lawfulness of the sale, to an FFL in an attempt to acquire a firearm. In consideration of the foregoing, I respectfully request that this Court issue a Criminal Complaint and Arrest Warrant for Kerry Trent KINARD.

This affidavit has been reviewed by Assistant United States Attorney Elliott B. Daniels.

AMBrown

Antonio Brown
Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

Subscribed and sworn to before me on December 4, 2020

This affidavit was sworn to by the affiant, who attested to its contents pursuant to Fed. R. Crim. P. 4.1(b)(2)(A) by telephone after a document was transmitted by email pursuant to Fed. R. Crim. P. 4.1.

Shiva V. Hodges

Honorable Shiva V. Hodges
United States Magistrate Judge

